

CHAPTER 13 – STATE FRANCHISE FOR CABLE TELEVISION SERVICE

SECTION .0100 – GENERAL REQUIREMENTS

18 NCAC 13 .0101 SCOPE

The rules in this Chapter implement Article 42 of Chapter 66 of the General Statutes.

History Note: Authority G.S. 55D-5; 55D-10; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0102 DEFINITIONS

The following terms and definitions apply to the rules in this Chapter:

- (1) "Act" means Article 42 of Chapter 66 of the North Carolina General Statutes entitled "State Franchise for Cable Television Service";
- (2) "Correspond" means to conform to or be obviously similar to, although not agreeing in every detail;
- (3) "Department" means the Department of the Secretary of State;
- (4) "Filed" means received by the Department and filed pursuant to G.S. 55D-15 and this Chapter;
- (5) "Filer" means a person submitting a filing pursuant to the Act and this Chapter;
- (6) "Filing" and "record" mean those forms, reports, attachments and information submitted in paper or electronic form; and
- (7) "Form" means a form or report promulgated by the Department and required or permitted to be filed pursuant to the Act.

History Note: Authority G.S. 55D-5; 55D-10; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0103 TIME

Time periods are calculated according to the provisions of G.S. 1A-1, Rule 6.

History Note: Authority G.S. 1A-1, Rule 6; 55D-5; 55D-10(b)(7); 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

SECTION .0200 – FILING

18 NCAC 13 .0201 FILING LOCATIONS AND METHODS

Each required filing must be submitted to and received by the Department using one of the following methods:

- (1) By United States mail at the following address: Department of the Secretary of State, P.O. Box 29622, Raleigh, NC 27626-0622.
- (2) In person or by a designated delivery service authorized pursuant to G.S. 1A-1, Rule 04 at the following street address: Secretary of State's Office, 2 South Salisbury Street, Raleigh, NC 27601-2903.

History Note: Authority G.S. 1A-1, Rule 4; 55D-5; 55D-10; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0202 FILING USING DEPARTMENT'S FORMS

- (a) Filers shall use forms promulgated by the Department.
- (b) For each filing, a filer shall submit an original consisting of:
 - (1) A completed and signed form;
 - (2) A map which complies with Section .0400 of this Chapter, if the filing of a map is required;
 - (3) Any attachments.
- (c) For each filing, a filer shall also submit three copies of the documents submitted to Paragraph (b) of this Rule.

History Note: Authority G.S. 55D-5; 55D-10; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0203 FORM COMPLETION REQUIREMENTS

- (a) All information requested on a form shall be completed by the filer whether requested by means of a block to be marked or a line to be completed.
- (b) Notwithstanding the requirements of Paragraph (a) of this Rule, if the filer's mailing address is the same as the filer's physical address, the filer may leave the mailing address question or item blank.
- (c) A form is not complete unless it complies with all other applicable filing requirements in this Chapter and Article 2 of Chapter 55D of the General Statutes.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0204 FILING SUBMISSION DATE AND TIME

A filing is submitted on the day it is received in paper form by the Department before 5:00 p.m. of that day.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0205 REJECTION OF INCOMPLETE FILING

The Department shall reject any filing which is incomplete because the filing:

- (1) Lacks any required information; or
- (2) Is not signed as required by the Act; or
- (3) Is not submitted together with any required fee; or
- (4) Does not comply with the requirements of G.S. 55D-10.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0206 DEPARTMENTAL REFUSAL TO FILE

The Department shall refuse to file a filing which is subject to rejection for any of the reasons stated in this Chapter or in Article 2 of Chapter 55D of the General Statutes.

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0207 EXPEDITED REVIEW OF FILING

A filer may request expedited review of a filing pursuant to G.S. 55D-11 upon payment of the applicable expedited review fee.

History Note: Authority G.S. 55D-5; 55D-10; 55D-11; 55D-15; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0208 EFFECTIVE DATE OF FILING

(a) When the Department does not reject a filing under Rule .0205 or refuse to file a filing under Rule .0206 and accepts and files a filing pursuant to G.S. 55D-15, the document is deemed filed on the date on which it was received by the Department.

(b) When the Department rejects a filing under Rule .0205 or refuses to file a filing under Rule .0206 and later accepts and files a subsequently submitted corrected filing pursuant to G.S. 55D-15, the document is deemed filed on the date on which the corrected filing was received by the Department.

History Note: Authority G.S. 55D-5; 55D-10; 55D-13; 55D-15; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0209 DEPARTMENT'S DELIVERY OF COPY TO FILER

At the time of submission of a filing, a filer may request that the Department make the copy delivery required by GS.55D-15(b) by a delivery service authorized pursuant to G.S. 1A-1, Rule 4 if the filer has:

- (1) Made provision for the delivery service to visit the Department and pick up the copy; or
- (2) Provided a completed delivery envelope and made arrangements with the delivery service for payment of costs associated with the pickup and delivery of the copy.

History Note: Authority G.S. 1A-1, Rule 4; 55D-5; 55D-10; 55D-15; 66-354(a); 26 U.S.C. 7502(f)(2);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

SECTION .0300 – FEES

18 NCAC 13 .0301 GENERAL REQUIREMENTS

- (a) A required fee shall be submitted together with the filing to which the fee applies.
- (b) A fee must be paid by cash, warrant, uncertified check, certified check, money order, or another instrument freely negotiable at par through the Federal Reserve System. Checks, money orders, or other instruments shall be drawn on U.S. financial institutions in U.S. currency.
- (c) A filing is void if a financial instrument listed in Paragraph (b) of this Rule and tendered for a required fee is returned by the institution upon which it was issued as "insufficient funds" or for other similar reason.

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

SECTION .0400 – MAPS AND DESCRIPTIONS OF SERVICE AREAS

18 NCAC 13 .0401 PURPOSE

The rules in this Section establish basic standards for map and description filings.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0402 CONTENT SUFFICIENCY REQUIREMENT FOR SUBMITTED MAPS

A map submitted shall accurately depict the geographic area to be served by reference to governmental boundaries, streets, roads, or geographical features.

History Note: G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 12 .0401);
Eff. December 1, 2007.

18 NCAC 13 .0403 DESCRIPTIONS OF SERVICE AREAS

(a) Service areas shall be described in a manner sufficient to enable a person to determine whether or not a particular location falls within the service area. NOTE: For example, any of the following descriptions would enable a person to determine whether a location fell within the described service area: the entirety of the State of North Carolina; the entirety of X county; all of X county north of Y highway; the city of Z; the A, B and C subdivisions of Q city; or, those portions of X county between river S and highway Y.

(b) If both a map and a description of a service area are required, then the description of the service area shall correspond to the map.

(c) A description shall not be sufficient if it merely refers to a map without a description of what the map represents.

History Note: Authority G.S. 55D-5; 55D-10; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);
Eff. November 1, 2007.

18 NCAC 13 .0404 RESERVED FOR FUTURE CODIFICATION'

18 NCAC 13 .0405 REQUIRED MAP COMPONENTS

A map shall have three basic components combined and submitted as a single final map document or image. These basic components are:

- (1) The map depicting recognizable geographic territory,
- (2) The service area depicting the filer's franchise service area, and
- (3) Boundary clarity and detail sufficient to comply with the requirements of Rule .0408, .0409, .0410, or .0411 of this Section.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Eff. November 1, 2007.

18 NCAC 13 .0406 GENERAL REQUIREMENTS FOR MAP

The map shall include:

- (1) The geographic map image;
- (2) A scale indicator;
- (3) A graphic indicating the direction North;
- (4) A title indicating the map's purpose;
- (5) A reference statement linking the map to the filing for which the map is submitted; and
- (6) A legend or key to any symbols on the geographic map image.

History Note: G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Eff. December 1, 2007.

18 NCAC 13 .0407 GENERAL REQUIREMENTS FOR SERVICE AREA

The service area for a submitted map shall:

- (1) Delineate the service area as one or more polygons. The polygon(s) shall be closed on all sides;
- (2) Identify area included in the service area polygon(s) through use of color fill, hash marks, hatching, or similar graphic depiction; and
- (3) Contain a legend or key to any symbols used to depict the service area. NOTE: For example, if hash marks are used to identify included areas of the service area, the legend or key would include that information.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);
Eff. November 1, 2007.

18 NCAC 13 .0408 MAP BOUNDARY DETAIL REQUIREMENTS FOR SERVICE AREAS COVERING THE ENTIRE AREA OF ONE OR MORE MUNICIPALITIES OR COUNTIES

- (a) A map depicting a service area that covers the entire area of one or more municipalities provides sufficient boundary detail if the map depicts the official boundaries of the covered municipality or municipalities.
- (b) A map depicting a service area that covers the entire area of one or more counties provides sufficient boundary detail if the map depicts the official boundaries of the covered county or counties.
- (c) For the purposes of this Rule, "official boundaries" means those boundaries set or recognized by the municipalities or counties depicted on the submitted map.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);
Eff. November 1, 2007.

18 NCAC 13 .0409 MAP BOUNDARY DETAIL REQUIREMENTS FOR SERVICE AREAS COVERING THE ENTIRE AREA OF THE STATE

A map depicting a service area that covers the entire area of the State provides sufficient boundary detail if the map depicts the official boundaries of the State.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);
Eff. November 1, 2007.

18 NCAC 13 .0410 INCREASED MAP BOUNDARY DETAIL REQUIREMENTS FOR SERVICE AREAS COVERING LESS THAN THE ENTIRE AREA OF A MUNICIPALITY OR COUNTY

A map depicting any service area that covers less than the entire area of a municipality or a county shall provide boundary detail as is necessary to comply with the requirements of Rule .0402 of this Section.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Eff. November 1, 2007.

18 NCAC 13 .0411 MAP SOURCES

Maps obtained from the following sources may be submitted and are acceptable so long as the map submitted complies with all service area requirements in this Section:

- (1) A map which is obtained either from a property mapper certified by the Department's Land Records Management Section or a county mapping office for the county in which the service area is located and which meets minimum State standards for creating base or cadastral maps established by G.S. 102-17 and G.S. 147-54.3, including any subsequent amendments to those standards. Copies of the standards may be viewed online using the Department's Internet site at the following address: <http://www.secretary.state.nc.us/land/> or may be obtained by contacting the Land Records Management Section, NC Department of the Secretary of State, PO Box 29626, Raleigh, North Carolina 27626-0626, telephone number 919-807-2206, facsimile number 919-807-2210. The cost for receiving a paper copy of these materials is twenty cents (\$.20) per page; or
- (2) A map which is obtained from the website established by the NC Geographic Information Coordinating Council at: www.nconemap.com at no cost to the user and which contains at least the following geo-referenced representation of the service area boundaries:
 - (a) County boundaries;
 - (b) City boundaries;
 - (c) Township boundaries;
 - (d) Roads and streets; or
- (3) A map which meets the requirements of the Utilities Commission as set forth in 04 NCAC 11 R09-04, including any subsequent amendments to those Rules. Copies of those Rules and the standards incorporated therein may be viewed online at: <http://reports.oah.state.nc.us/ncac.asp> or may be obtained by contacting the Corporations Division, NC Department of the Secretary of State; PO Box 29626, Raleigh, North Carolina 27626-0626, telephone number 919-807-2225; or
- (4) For maps concerning municipalities, a map which is obtained from the office of the clerk for the municipality depicted in the map.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);
Eff. November 1, 2007.

18 NCAC 13 .0412 RESERVED FOR FUTURE CODIFICATION'

18 NCAC 13 .0413 ADDITIONAL MAP INFORMATION PERMITTED

A map may contain additional information which will be useful to the customers of the franchise holder, the North Carolina Department of Revenue, local governments and others. Note: For example, a map may include geographical features such as waterways.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);
Eff. November 1, 2007.

18 NCAC 13 .0414 FILING OF MAPS

A paper copy and an electronic copy of a map shall be submitted with each filing for which a map is required.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-353; 66-354(a);
Eff. November 1, 2007.

18 NCAC 13 .0415 ELECTRONIC MAP FORMAT REQUIREMENTS

Any electronic copy of a map submitted under this Section shall be submitted either in Portable Document Format (PDF) or in a GIS "shapefile".

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-353; 66-354(a);
Eff. November 1, 2007.

18 NCAC 13 .0416 ELECTRONIC MAP MEDIA REQUIREMENTS

(a) Any electronic copy of a map submitted under this Section may be submitted using any of the following media:

- (1) A floppy disk;
- (2) A CD-Rom Disc, or
- (3) A DVD-Rom Disc.

(b) The medium containing the electronic map shall be labeled in a manner that identifies the filer, the filing type, and the date of submission.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Eff. November 1, 2007.

18 NCAC 13 .0417 AMENDMENTS TO SERVICE AREAS PROHIBITED

(a) A franchise holder shall not file an amendment to a map or service area description which changes the service area boundaries.

(b) A new notice of franchise shall be filed if a filer seeks to change a franchise service area.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Eff. July 3, 2008.

18 NCAC 13 .0418 PERMITTED MAP AND DESCRIPTION AMENDMENTS

(a) A filer may amend a map or service area description for reasons other than changes to the service area boundaries. NOTE: For example, a filer may amend a map or service area description to further identify landmarks within the described service area such as street names.

(b) An amended map or service area description shall:

- (1) Be titled "Amended"; and

- (2) Comply with Rule .0202 of this Chapter.
- (c) If a map is amended pursuant to this Rule, an electronic copy shall be provided consistent with the requirements of this Section.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Eff. November 1, 2007.

18 NCAC 13 .0419 ANNUAL SERVICE REPORT MAP SUBMISSION

For the purpose of complying with the map filing requirements for annual service reports under G.S. 66-353, a filer submitting an annual service report shall either:

- (1) Combine and submit the information required by G.S. 66-353(2) and G.S. 66-353(4) on a single map image, so long as the resulting single map image provides the visual depiction and information required by each provision of law; or
- (2) Submit two separate map images: one map image to depict the service area and one map image to depict households passed.

History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-353; 66-354(a);
Eff. November 1, 2007.

SECTION .0500 – NOTICE OF FRANCHISE

18 NCAC 13 .0501 SCHEDULES

- (a) A schedule shall set forth the proposed sequence and timing of the provision of service to the service area. Deviations from the proposed schedule shall be noted and explained in the annual service report as required in G.S. 66-353(8).
- (b) If a franchise service area contains noncontiguous geographic areas, then the schedule in the notice of franchise shall specifically address each of the noncontiguous areas.

History Note: Authority G.S. 55D-5; 55D-10; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

SECTION .0600 – NOTICE OF COMMENCEMENT OF SERVICE

18 NCAC 13 .0601 NOTICE OF COMMENCEMENT OF SERVICE

A notice of commencement of service shall include:

- (1) The effective date of the notice of franchise for that service area as determined pursuant to Rule .0208 of this Chapter as noted on the copy of the notice of franchise returned by the Department to the filer and available on the Department's website;
- (2) The franchise number assigned by the Department;
- (3) Either verification that there have been no changes in the information on the notice of franchise with regard to the identity, address and contact information of the filer or amendment of that information;
- (4) A map of the service area which complies with Section .0400 of this Chapter;
- (5) A description of the service area which complies with Section .0400 of this Chapter;
- (6) A statement confirming that cable service has begun in the service area; and
- (7) The date on which cable service began.

History Note: Authority G.S. 55D-5; 55D-10; 66-352(b); 66-354(a);
Eff. November 1, 2007.

SECTION .0700 – NOTICE OF WITHDRAWAL

18 NCAC 13 .0701 MINIMUM REQUIREMENTS

A notice of withdrawal must include:

- (1) The name of the franchisee as stated on the notice of franchise;
- (2) The date of the notice of franchise;
- (3) The cities and counties identified in the original notice of franchise;
- (4) The date upon which the franchisee will cease providing service; and
- (5) The franchise number assigned by the Department.

History Note: Authority G.S. 55D-5; 55D-10; 66-352(d); 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0702 WITHDRAWAL NOTICE COVERS ENTIRE SERVICE AREA

A withdrawal of a notice of franchise applies to the entire franchise service area.

History Note: Authority G.S. 55D-5; 55D-10; 66-352(d); 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

SECTION .0800 – ANNUAL SERVICE REPORT

18 NCAC 13 .0801 ONE ANNUAL SERVICE REPORT PER FRANCHISE

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Temporary Adoption Expired November 1, 2007.

18 NCAC 13 .0802 ANNUAL SERVICE REPORT DESCRIPTION AND MAP INFORMATION

Description and map information filed in an annual service report must correspond with description and map information in the notice of franchise to which the annual service report applies.

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0803 ANNUAL SERVICE REPORT SCHEDULE

The explanation included in an annual service report for a new schedule and the accompanying new schedule shall be linked to the description and map of the franchise service area in a manner which permits a person reading the explanation to determine whether or not the new schedule affects an area. Note: For example, an explanation and new schedule would be linked to the service area description if it stated: Households in the northern quadrant of the service area were scheduled to be passed in 2007. That schedule has now changed because flooding due to Hurricane XYZ prevented passing those households. Those households are now scheduled to be passed in 2008.

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a);
Eff. November 1, 2007.

18 NCAC 13 .0804 REQUIRED CUSTOMER SERVICE INFORMATION

An annual service report shall specify the extent to which the following requirements contained in 47 C.F.R. Part 76 have been met:

- (1) 47 C.F.R. 76.309 Customer service obligations;
- (2) 47 C.F.R. 76.1602 Customer service--general information;
- (3) 47 C.F.R. 76.1603 Customer service--rate and service changes; and
- (4) 47 C.F.R. 76.1604 Charges for customer service changes.

A cable service franchise holder may include additional information regarding compliance with customer service requirements in Part 76 of Title 47 of the Code of Federal Regulations in the annual report.

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a); 66-356(b); 47 C.F.R. Part 76;
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.

18 NCAC 13 .0805 ANNUAL SERVICE REPORT PERCENTAGE OF HOUSEHOLDS PASSED

When listing the percentage of households passed in the service area as of July 1 of any preceding year for which a report was required, a filer shall list the percentage that was set forth on the annual service report for the immediately preceding year. A filer is not required to list percentages for other prior years in which another annual service report was filed.

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a);
Eff. November 1, 2007.

SECTION .0900 – RECORDS

18 NCAC 13 .0901 ACCESSING PUBLIC RECORDS

Records may be physically viewed at the Department by the public on weekdays during normal operating hours, except on State holidays. A list of State holidays may be viewed at: <http://www.osp.state.nc.us/holsched.htm>.

History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-354(a);
Temporary Adoption Eff. January 1, 2007;
Eff. November 1, 2007.